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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,979	11/26/2001	Ewa Kolby-Falk	000500-271	4292

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EXAMINER

REICHLE, KARIN M

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 09/25/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,979

Applicant(s)

KOLBY-FALK, EWA

Examiner

Karin M. Reichle

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☒ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

Priority

1. In the priority statement added to page 1, "priority...365" should be --the benefit of--.

Drawings

2. The drawings are objected to because in Figure 2, the line from 104 should lead to the absorbent. In Figure 1 the line from 113 should be an arrow. Also 125 should extend all the way to the structure it denotes. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Description

3. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: abstract.

4. The use of the trademark velcro, paragraph 0030, has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

5. The disclosure is objected to because of the following informalities: what is element 513?

Appropriate correction is required.

Claim Objections

6. Claim 1-14 are objected to because of the following informalities: in claim 1, second to last line, 'the'(second) should be --a--. In claims 12 and 13, "facing"(all) should be --faceable--. Appropriate correction is required.

Claim Language Interpretation

7. Claim 15 does not invoke 35 USC 112, sixth paragraph, because it does not employ proper "means plus function" form and/or includes a recitation of sufficient specific structure to perform the claimed function.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Lindsay et al '955.

Claims 1, 15 and 16: see Figure 4, liquid permeable layer is 12, liquid impermeable layer is 14, absorption body is at least 18 which is formed by a preformed dehydrated hydrogel, see col. 22, lines 18-24, col. 28, lines 43 et seq (and thus Kellerberger '343, e.g., at col. 7, lines 42-55 thereof) which as a result of the performing, when wetted, swells in the thickness direction and forms an elevation portion on the top side of the product, see col. 23, lines 36-54, col. 27, line 15-col. 28, line 18. With regard to claim 16, also see col. 15, lines 1-2.

Claim 2: see also col. 34, line 8-16. It is noted that the claim does not require the preformed dehydrated hydrogel has the sticky surface.

Claim 3: see '343 again at col. 5, lines 17-28.

Claims 4-8: see col. 24, line 62-col. 25, line 9 and col. 29, lines 21-39 and col. 30, line 11.

Claims 9-14: see col. 23, lines 36-39 and col. 24, lines 4-31.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references teach expanding portions and/or are cited by references cited by the Applicant and/or teach hydrogels. For example the Carlucci references of earlier date than the Lindsay reference cited by the Examiner and Applicant teach a preformed absorbent including

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hydrogel but are silent as to whether such is dehydrated but Kellenberger and Masuda et al teach that hydrogels such as that used by Carlucci are dried.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (703) 308-2617.

The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR